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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,761	11/26/2003	John Gavin MacDonald	19800	9700
23556	7590	12/21/2005		
KIMBERLY-CLARK WORLDWIDE, INC. 401 NORTH LAKE STREET NEENAH, WI 54956			EXAMINER CHAPMAN, GINGER T	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 12/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/723,761

Applicant(s)

MACDONALD ET AL.

Examiner

Ginger T. Chapman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>06/20/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of the claims

As per Applicant's amendment of 12 October 2005, claims 1-16 are cancelled, claims 17-31 are pending in the application.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, "the substrate wrapped around the absorbent core", "the substrate positioned between the baffle and the absorbent core" and "the substrate positioned adjacent to one or more ends of the absorbent core" must be shown or the features canceled from the claims. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

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be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 17, 18, and 20-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Fujinami et al (US 3,939,838).

With respect to claim 17, Fujinami et al, in Figures 2, 5 and 6, disclose a personal care product (21, 51, 61) comprising a liquid impervious baffle (25, 55, 65), a liquid pervious liner (22, 52, 62), an absorbent core (23, 53, 63) positioned between baffle and liner, and an odor

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sorbent substrate (26, 56, 66) that is coated with activated carbon particles (col. 4, l. 10) and binder (col. 3, l. 50-53).

With respect to claim 18, Fujinami et al disclose the personal care product (11) is a feminine hygiene product.

With respect to claim 20, in Figure 2 Fujinami et al disclose the substrate (26) is positioned between the baffle (25) and the core (23).

With respect to claims 22-24, Fujinami et al disclose the activated carbon particles are present in an amount between about 2 and 80 weight percent and between about 10 and 30 weight percent of the substrate (56) on a dry basis (col. 4, ll. 38-39).

With respect to claim 25, Fujinami et al disclose the substrate (26, 56, 66) contains a nonwoven web (col. 3, l. 24-25).

With respect to claim 26, Fujinami et al disclose the substrate (26, 44, 56, 66) contains a wetlaid or airlaid paper web (col. 3, ll. 39-42).

With respect to claim 27, in Figure 4 Fujinami et al disclose the substrate (44) contains a film (col. 2, ll. 47-50 and col. 3, ll. 30-31).

Claims 17-25 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanzer et al (EP 348,978).

With respect to claim 17, Tanzer et al disclose a personal care product (10) comprising a liquid impervious baffle (22), a liquid pervious liner (24), an absorbent core (12) positioned between baffle (22) and liner (24), and an odor sorbent substrate (p. 6, ll. 50-51) consisting

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essentially of activated carbon particles (p. 4, ll. 48-50) and binder (p. 7, l. 5). Tanzer et al disclose all aspects of the claimed invention with the exception of further disclosing at page 4, lines 26-50 that the activated carbon particles are used to absorb odoriferous compounds which are not acidic or basic while particles having a pH of less than 7, i.e. acidic particles, can be utilized to provide control of basic odoriferous compounds while particles having a pH of greater than 7, i.e. basic particles, can be utilized to provide control of acidic odoriferous compounds and therefore neutral, acidic and basic particles are suitable to absorb neutral, basic and acidic odoriferous compounds respectively.

In view of the teachings of Tanzer it would have been obvious to one having ordinary skill in the art at the time the invention was made to use activated carbon to absorb odoriferous compounds in personal care products thereby controlling emanating malodors and providing a cleaner article since Tanzer et al disclose at page 4, lines 48-50 that activated carbon particles are typically used for absorbing odors.

With respect to claim 18, in Figure 5 Tanzer et al disclose the personal care product (10) is a feminine hygiene product.

With respect to claim 19, in Figure 11 Tanzer et al disclose the substrate (130) wraps around (120, 122) the absorbent (116).

With respect to claim 20, in Figure 5 Tanzer et al disclose the substrate (48) is positioned between the baffle (42) and the absorbent core (40).

With respect to claim 21, in Figure 12 Tanzer et al disclose the substrate (152) is positioned adjacent to one or more ends of the absorbent (138).

With respect to claims 22-24, Tanzer et al disclose activated carbon particles present in an amount of between 2 and 80 weight percent of the substrate on a dry basis (p. 5, ll. 50-55).

With respect to claims 25 and 27, Tanzer et al disclose in Figure 8 the substrate (62) contains a film (p. 6, l. 49 and p. 3, l. 45).

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tanzer et al as applied to claim 17 above, and further in view of Pomplun et al.

With respect to claim 28, Tanzer et al disclose the substrate can be formed with a binder but do not expressly disclose a binder. Pomplun et al teach a personal care product (col. 1, ll. 19-20) having activated carbon particles for odor control (col. 26, ll. 58-66) and styrene-acrylic binder (col. 14, l. 43). Pomplun teaches at column 14, lines 20-21 that such a binder can help reduce the stiffness of the personal care product to which it is applied. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the personal care product of Tanzer using styrene-acrylic binder as taught by Pomplun in order to provide a personal care product with reduced stiffness since Pomplun states at column 14 lines 26-27 that an undesirable amount of stiffness is detrimental to the handling of the product during processing.

Claims 29-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Thomas (US 2005/0098466).

With respect to claim 29, In Figures 2 and 4 Thomas discloses a pouch (20) for disposal of a personal care product (p. 1, [0001]) the pouch being formed from a substrate (24) that is

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coated (p. 2, [0017], lines 6-10; p. 1 [0007]) with activated carbon ([0017], line 3) and binder ([0017], line 6).

With respect to claim 30, Thomas discloses fastening means (30).

With respect to claim 31, Thomas discloses the substrate (24) contains a film (p. 2 lines 2-3, [0015]).

Response to Arguments

Applicant's arguments filed 12 October 2005 have been fully considered but they are not persuasive.

With respect to independent claim 17, Applicant argues that Karapasha includes additional structure not required by Applicants' invention, i.e. Karapasha teaches the odor controlling agent and binder and also teaches a superabsorbent material, which is now excluded from independent claim 17 by amended language "consisting essentially of" (remarks, p. 5 paragraph 3). This argument is not persuasive because Karapasha discloses at column 2, lines 11-17 that the prior art products consisting essentially of carbon and binder are known and that the Karapasha improvement to the prior art was overcoming the deficiencies of the prior art products, i.e. the prior art products were difficult to handle and the addition of the superabsorbent material improved the prior art by providing the agents in a form which is easy to handle; Karapasha further discloses at column 3, lines 6-8 that prior art reference BE 815,446 discloses the use of activated carbon and binder without superabsorbent and thus discloses all aspects of the claimed invention. However, the previous rejection of independent claim 1 under 35 USC 102(b) as being anticipated by Karapasha et al (US 5,306,487) has been withdrawn in view of the

amendments to the claims. Specifically, the addition of the limitation “consisting essentially of” thus excluding the use of absorbent gelling materials, has forced the withdrawal of this reference as an anticipatory reference.

With respect to independent claim 12, Applicant argues that Thomas discloses a pouch having odor absorbing materials sprayed onto the pouch while Applicants pouch is coated with odor absorbing material. This argument is not persuasive because the method of attaching the odor absorbent to the pouch is a product-by-process limitation. The claims are drawn to a product which does not depend on its method of production and in each case the end product is the same. Thomas discloses that the odor absorbing materials can be affixed to the substrate, sprayed onto the substrate and molded within the substrate, as described in page 2, [0017]. Thomas therefore discloses the product and fulfills the claimed limitations.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ginger T. Chapman whose telephone number is (571) 272-4934. The examiner can normally be reached on Monday through Friday 8:30 a.m. to 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ginger Chapman
Examiner, Art Unit 3761
12/19/05



TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

